BY 18 MAY BY

#### IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

#16 c.

In re Application of:

GARCIA-MARTIN et al.

GRACIA-MARTIN1

Group: 3634

Appln. No.: 09/581,946

Washington, D.C.

Filed: 08 November 2000

October 18, 2004

For: DOOR MODULE

Attn: PETITIONS

#### PETITION TO VACATE HOLDING OF ABANDONMENT

U.S. Patent and Trademark Office 2011 South Clark Place Customer Window, Mail Stop Crystal Plaza Two, Lobby, Room 1B03 Arlington, Virginia 22202

RECEIVED 0CT 2 2 2004 GROUP 3600

Sir:

Applicant is in receipt of the Notice of

Abandonment, mailed September 28, 2004, which erroneously

states that the application is abandoned because of

applicant's failure to file a response within the time period

established by the Office Action mailed April 22, 2002.

It is respectfully requested that such Notice of Abandonment be vacated as being erroneous and that the present application be reinstated.

No fee is necessary for this petition. However, if a fee must be charged, please charge same to Deposit Account No. 02-4035, and then refund said fee as the holding of abandonment is erroneous and is entirely the fault of the PTO.

#### THE FACTS

Applicant received a non-final official action dated April 22, 2002. Applicant timely and properly responded within the time period established by the Office Action dated April 22, 2002, by timely filing a Response on September 20, 2002, along with payment of a two-month extension of time fee.

As evidence that such Response was timely and properly filed on September 20, 2002, attached hereto is a xerographic copy of the return postcard date-stamped by the PTO Mail Room as having been timely received by the PTO on September 20, 2002.

As it appears that the Response filed on September 20, 2002, has been lost by and in the PTO (after having been received in the mailroom and having the fee charged to applicant's credit card account), attached hereto is a duplicate copy of the Response (entitled "Amendment) dated September 20, 2002. However, the two months' extension fee has already been charged to applicant's credit account on September 23, 2002. As proof of this fact, attached hereto is a copy of the statement of Credit Card Transactions for our credit card issued by the PTO Revenue Accounting and Management System (with non-relevant application numbers redacted and the relevant entry highlighted), showing that the \$400 has already been credited to the PTO. Accordingly, the attached executed copy of the Response of September 20, 2002,

<sup>&</sup>lt;sup>1</sup> The reference in the Notice of Abandonment to the Official action of April 22, 2002, as being a final rejection is erroneous. The Official action of April 22, 2002, which contains a new rejection, is expressly designated in paragraph 2(b) as being non-final. Copies of the first two pages of this action are attached hereto with the relevant section highlighted.

authorization to charge said extension of time fee. further fees are required at this time.

On March 23, 2003, March 23, 2004, and September 30, 2004, requests for status were filed. No written response was ever received to any of these requests for status.

A Notice of Abandonment was mailed on September 28, 2004.

#### REMARKS

In view of the above evidence, it is clear that a reply was timely and properly filed within the time period established by the Office Action mailed on April 22, 2002, and that the Notice of Abandonment has been issued in error. Indeed, the postcard by itself should be sufficient, as MPEP Section 503 states:

> A postcard receipt which itemizes and properly identifies the papers which are being filed serves as prima facie evidence of receipt of the PTO of all items listed there on the date stamped thereon by the PTO.

It is accordingly requested that the Notice of Abandonment be vacated and the present application be reinstated.

BROWDY AND NEIMARK, P.L.L.C.

Attorneys for Applicant

Roger L. Browdy

Registration No. 25,618

RLB:edg:jab

Telephone No.: (202) 628-5197 Facsimile No.: (202) 737-3528

G:\BN\O\Ocha\garcia martin1\pto\patent erroneous abandonment.doc

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE Art Unit: 3634 In Re Application of: GARCIA-MARTIN et al. Examiner: Curtis A. Cohen Application No.: 09/581,946 Washington, D.C. Filed: November 8, 2000 OCT 1 8 2004 For: DOOR MODULE Atty.'s Docket: GARCIA-MARTIN = 1 Date: September 20, 2002 RECEIVED Confirmation No. 6651 THE COMMISSIONER OF PATENTS AND TRADEMARKS OCT 2 2 2004 Washington, D.C. 20231 Sir. **GROUP 3600** Transmitted herewith is a [ X ] Amendment [ ]\_ in the above-identified application. [ ] Small entity status of this application under 37 CFR 1.9 and 1.27 has been established by a verified statement previously submitted ] A verified statement to establish small entity status under 37 CFR 1.9 and 1.27 is enclosed. ] No additional fee is required. [X ] The fee has been calculated as shown below: OTHER THAN SMALL ENTITY (Col. 1) (Col. 2) (Col. 3) SMALL ENTITY HIGHEST NO. **ADDITIONAL CLAIMS** PRESENT RATE **ADDITIONAL** OR RATE REMAINING **PREVIOUSLY EXTRA** FEE AFTER PAID FOR **EQUALS** AMENDMENT \$ TOTAL MINUS 20 9 \$ 18 \$ MINUS 42 s 84 INDEP 3 \$ FIRST PRESENTATION OF MULTIPLE DEP. CLAIM 140 \$ 280 OR \$ ADDITIONAL FEE TOTAL s If the entry in Col. 1 is less than the entry in Col. 2, write "0" in Col. 3. If the "Highest Number Previously Paid for" IN THIS SPACE is less than 20, write "20" in this space. If the "Highest Number Previously Paid for" IN THIS SPACE is less than 3, write "3" in this space. The "Highest Number Previously Paid For" (total or independent) is the highest number found from the equivalent box in Col. 1 of a prior amendment of the number of claims originally filed. Conditional Petition for Extension of Time If any extension of time for a response is required, applicant requests that this be considered a petition therefor. [X ] It is hereby petitioned for an extension of time in accordance with 37 CFR 1.136(a). The appropriate fee required by 37 CFR 1.17 is calculated as shown below: Small Entity Other Than Small Entity Response Filed Within Response Filed Within 110.00 First \$ 55.00 [ ] [ 400.00 Second \$ 200.00 IX 1 1 1 Third \$ 460.00 920.00 1 1 \$ 720.00 Fourth \$ 1440.00 Fourth 1 1 Month After Time Period Set Month After Time Period Set \_\_\_\_\_ already paid for \_\_\_\_ month(s) extension of time on \_\_\_\_ Less fees (\$\_\_

The Commissioner is hereby authorized and requested to charge any additional fees which may be required in connection with this application or credit any overpayment to Deposit Account No. 02-4035. This authorization and request is not limited to payment of all fees associated with this communication, including any

Extension of Time fee, not covered by check or specific authorization, but is also intended to include all fees for the presentation of extra claims under 37 CFR §1.16 and all patent processing fees under 37 CFR §1.17 throughout the prosecution of the case. This blanket authorization does not include patent issue fees **BROWDY AND NEIMARK** 

Attorneys for Applicant(s)

Facsimile: (202) 737-3528 (202) 628-5197 Telephone:

A check in the amount of \$\_

under 37 CFR §1.18.

[ ] Please charge my Deposit Account No. 02-4035 in the amount of \$\_

[X ] Credit Card Payment Form, PTO-2038, is attached, authorizing payment in the amount of \$400.00

\_ is attached (check no. ).

Kelstein gistration No. 21,082



#### IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: GARCIA-MARTIN et al.	)	ATTY'S DKT: GARCIA-MARTIN1
	)	Group: 3634
Appln. No.: 09/581,946	)	
	)	Washington, D.C.
Filed: 08 November 2000	)	
	)	October 18, 2004
For: DOOR MODULE	)	
	)	Attn: PETITIONS

#### COMMUNICATION

U.S. Patent and Trademark Office 2011 South Clark Place Customer Window, Mail Stop Crystal Plaza Two, Lobby, Room 1B03 Arlington, Virginia 22202 RECEIVED

0CT 2 2 2004

GROUP 3600

Sir:

Please disregard the paper titled <u>Petition to Vacate Holding of Abandonment</u> filed on October 15, 2004, in the above-identified application, as the signature page was inadvertently omitted. Please replace said paper with the complete version attached hereto.

Respectfully submitted,

BROWDY AND NEIMARK, P.L.L.C. Attorneys for Applicant

Ву

Roger L. Browdy

Registration No. 25,618

RLB:edg:jab

Telephone No.: (202) 628-5197 Facsimile No.: (202) 737-3528

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## United States Patent and Trademark Office

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UNITED STATES DEPARTMENT OF COMMERCE United States Patent and Trademark Office Address: COMMISSIONER FOR PATENTS

Alexandria, Virginia 22313-1450

pes pur

APPLICATION NO. FILING DATE FIRST NAMED INVENTOR ATTORNEY DOCKET NO. CONFIRMATION NO. 09/581,946 11/08/2000 Jose Francisco Garcia Martin GARCIA-MARTI 6651 09/28/2004 **EXAMINER** BROWDY AND NEIMARK, P.L.L.C. REDMAN, JERRY E 624 NINTH STREET, NW SUITE 300 ART UNIT PAPER NUMBER WASHINGTON, DC 20001-5303 3634 DATE MAILED: 09/28/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

# RECEIVED

OCT 2 2 2004

**GROUP 3600** 

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BROWDY AND NEIMARK WASHINGTON, D C 20004

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nc 18	2004 2	<b>GROUP 3600</b>

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	•

GROUP 36	600	V 1
	Application No.	Applicant(s)
Notice of Abandonment	09/581,946	GARCIA MARTIN ET AL.
Notice of Abandonnient	Examiner	Art Unit
	Jerry Redman	3634
The MAILING DATE of this communication	appears on the cover sheet wi	th the correspondence address-
This application is abandoned in view of:		• ,
<ol> <li>Applicant's failure to timely file a proper reply to the (a) ☐ A reply was received on (with a Certificate period for reply (including a total extension of time (b) ☒ A proposed reply was received on 6/7/2002, but rejection.</li> </ol>	e of Mailing or Transmission dated e of month(s)) which expir	), which is after the expiration of the ed on
(A proper reply under 37 CFR 1.113 to a final rejection application in condition for allowance; (2) a timely Continued Examination (RCE) in compliance with	/ filed Notice of Appeal (with appe	r filed amendment which places the al fee); or (3) a timely filed Request for
(c) A reply was received on but it does not co final rejection. See 37 CFR 1.85(a) and 1.111.	nstitute a proper reply, or a bona See explanation in box 7 below).	fide attempt at a proper reply, to the non-
ˆ (d) ☐ No reply has been received.		
Applicant's failure to timely pay the required issue fer from the mailing date of the Notice of Allowance (PTG).	e and publication fee, if applicable OL-85).	, within the statutory period of three months
(a) The issue fee and publication fee, if applicable,), which is after the expiration of the statuto Allowance (PTOL-85).	was received on (with a	Certificate of Mailing or Transmission dated fee (and publication fee) set in the Notice o
(b) The submitted fee of \$ is insufficient. A ball		
The issue fee required by 37 CFR 1.18 is \$		d by 37 CFR 1.18(d), is \$
(c) The issue fee and publication fee, if applicable, ha	as not been received.	
3. Applicant's failure to timely file corrected drawings as Allowability (PTO-37).	required by, and within the three-	month period set in, the Notice of
<ul> <li>(a) ☐ Proposed corrected drawings were received on _ after the expiration of the period for reply.</li> </ul>	(with a Certificate of Mailing	or Transmission dated), which is
(b) No corrected drawings have been received.		
The letter of express abandonment which is signed b the applicants.	y the attorney or agent of record,	the assignee of the entire interest, or all of
5. The letter of express abandonment which is signed b 1.34(a)) upon the filing of a continuing application.	y an attorney or agent (acting in a	representative capacity under 37 CFR
6. The decision by the Board of Patent Appeals and Inte	erference rendered on and claims.	because the period for seeking court review
7.  The reason(s) below:		
		Lawrence Company
		Jerry Redman Primary Examiner
	•	. miles & magazing
Petitions to revive under 37 CFR 1.137(a) or (b), or requests to with	thdraw the holding of abandonment ur	nder 37 CFR 1.181. should be promotiv filed to
U.S. Patent and Trademark Office		The state of prompty filed to
PTOL-1432 (Rev. 04-01) Not	ice of Abandonment	Part of Paper No. 20040922

# **RECEIVED**

OCT 2 2 2004

# **GROUP 3600**

APPLICATION/PATENT NO: 09 581, 946  DOCKET NO: Garcia-Martin=1	CONF. NO.: 6651 CLIENT CODE: OCHA
THE PATENT AND TRADEMARK OFFICE STAMP HEREON ACKNOWLEDGES RECEIPT OF THE FOLLOWING PAPERS:  PTO FORM 2038 (CH. #) EXTENSION OF TIME ( MONTHS)	SEP 2 0 2002 W
TRANSMITTAL LETTER  MISSING PARTS RESPONSE WITH DECL  AMENDMENT RESPONSE (circle one)  PRELIMINARY SUPPLEMENTAL  APPLICATION DATA SHEET  RESTRICTION/ELECTION REPLY SEQUENCE LISTING WITH DISK RCE / CPA TRANSMITTAL (circle one)  NOTICE OF APPEAL APPEAL BRIEF (TRIPLICATE) REPLY BRIEF (TRIPLICATE) OTHER	ASSIGNMENT INFORMATION DISCLOSURE STATEMENT FORM SB08A & PATENTS/PUBS PRIORITY DOCUMENT(S) NO  DECLARATION UNDER § LETTER TO DRAFTSMAN SHEETS OF DRAWINGS ISSUE FEE TRANSMITTAL FORM MAINTENANCE FEE LETTER
B&N-1	

# RECEIVED OCT 2 2 2004 GROUP 3600

APPLICATION/PATENT NO: 09581, 946  DOCKET NO: GARCIA - MARKOFICE STAMP HEREON ACKNOWLEDGES RECEIPT OF THE FOLLOWING PAPERS:  PTO FORM 2038 (CH. #) EXTENSION OF TIME ( MONTHS) TRANSMITTAL LETTER	CONF. NO.: 6651 CLIENT CODE: OCHA  SEP 2 0 2002
☐ MISSING PARTS RESPONSE WITH DECL  MAMENDMENT RESPONSE (circle one)  ☐ PRELIMINARY ☐ SUPPLEMENTAL  ☐ APPLICATION DATA SHEET	☐ ASSIGNMENT ☐ INFORMATION DISCLOSURE STATEMENT ☐ FORM SB08A & PATENTS/PUBS ☐ PRIORITY DOCUMENT(S) NO
☐ RESTRICTION/ELECTION REPLY ☐ SEQUENCE LISTING ☐ WITH DISK ☐ RCE / CPA TRANSMITTAL (circle one) ☐ NOTICE OF APPEAL ☐ APPEAL BRIEF (TRIPLICATE) ☐ REPLY BRIEF (TRIPLICATE) ☐ OTHER	☐ DECLARATION UNDER § ☐ LETTER TO DRAFTSMAN ☐ SHEETS OF DRAWINGS ☐ ISSUE FEE TRANSMITTAL FORM ☐ MAINTENANCE FEE LETTER

# U.S. PATENT AND TRADEMARK OFFICE REVENUE ACCOUNTING AND MANAGEMENT SYSTEM

# **CREDIT CARD TRANSACTIONS**

Card Number: ...1004

Start Accounting Date:

09/01/2002 09/30/2002

End Accounting Date;

Date/Time of Report: Fri Dec

27 11:42:39 2002

## **Credit Card Sales**

**Accounting Date** 

Create Date

**Amount Fee Code** 

Name/Number

**Attorney Docket** 

· **)** 

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09/03/2002	AM 08/31/2002 11:22:51	\$445.00	971	
09/03/2002	AM 08/31/2002 11:22:51	\$445.00	971	
09/03/2002	AM 08/31/2002 12:00:34	\$140.00	969	
09/03/2002	PM 08/31/2002 12:00:34	\$445.00	971	ı
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09/03/2002	PM 08/31/2002 01:45:42	\$140.00	969	
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09/04/2002	09/03/2002 04:50:35 PM	\$130.00	139	
09/04/2002	09/03/2002 05:08:40 PM	\$1,280.00	142	
09/04/2002	09/03/2002 05:08:40 PM	\$30.00	561	
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09/24/200	2 AM 09/24/2002 11:55:24	\$110.00	115		MURARO 7/4
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09/24/2002	PM	\$440.00	283	•	•
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09/24/2002	09/24/2002 02:30:44 PM	\$1,550.00	285		RENZACLI 3-7
09/24/2002	09/24/2002 01:24:06 PM	\$165.00	206		GARCIA Z M
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09/25/2002	AM 09/25/2002 10:54:21	\$300.00	195 :	•	CHEN298
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